

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

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U. S. DISTRICT COURT
MID. DIST. TENN.

CRAIG CUNNINGHAM, Pro-se

Plaintiff

v.

Endless Access LLC, Endless Access Distributors, LLC,
Saveonresorts.com, LLC, Scott Boykin, A. T Mathis, and John/Jane does 1-5, Travellink
Corp, Olen Miller, John/Jane Doe 1-3

Defendants.

CIVIL ACTION NO.:

Plaintiff's Original complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Upon information and belief, Endless Access LLC is a Nevada Corporation operating from 3225 McLeod Dr. Ste 100, Las Vegas, NV 89121 and the website www.endlessaccess.com and can be served via registered agent: Anderson Registered Agents, 3225 McLeod Drive # 110, Las Vegas Nv 89121.
3. Upon information and belief, Endless Access Distributors, LLC is a Nevada Corporation operating from 3225 McLeod Dr. Ste 100, Las Vegas, NV 89121 and the website www.endlessaccess.com and can be served via registered agent: Anderson Registered Agents, 3225 McLeod Drive # 110, Las Vegas Nv 89121.
4. Scott Boykin is a natural person and apparent CEO of Endless Access LLC and Endless Access Distributors, LLC and is responsible for the calls in question.

5. A. T. Mathis is a natural person and is listed as an officer for the Endless Access LLC and Endless Access Distributors LLC and is responsible for the calls in questions.
6. Saveonresorts.com LLC is a California corporation and seller of travel and is operating from 5962 La Place Ct. Ste 100, Carlsbad, CA 92008 and can be served via registered agent Elliot Springer at 3512 Sitio Baya Carlsbad, CA 92009.
7. Travellink Corp is a Florida Corporation with the manager and registered agent Olen Miller. They are operating from 5700 Memorial Highway, ste 221 Tampa, FL 33615 and can be served there as well.
8. Olen Miller is the president and manager of TravelLink Corp and is responsible for the calls being made to the Plaintiff. He can be served at 5700 Memorial Highway, ste 221, Tampa, FL 33615.
9. The John Doe Defendants represent a currently unknown 3rd party marketing company that placed calls on behalf of saveonresorts.com and Endless Access that the Plaintiff anticipates will be identified through the discovery process.

Jurisdiction

10. Jurisdiction of this court arises as the acts happened in this county.
11. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here. Personal jurisdiction is apparent as the defendants are conducting regularly scheduled meetings in a Nashville area hotel and are placing advertising calls to Nashville area residents to attend these meetings for the purpose of soliciting them for travel.

FACTUAL ALLEGATIONS

12. In 2015, the Plaintiff received an automated phone calls with a pre-recorded message to the Plaintiff's cell phone which informed the Plaintiff that he was eligible for a free vacation package. The Plaintiff then pressed zero to be connected to an agent who stated that they were calling on behalf of Endless Access travel club and that Endless Access was hosting a promotional meeting in Murfreesboro, TN.
13. The Agent stated that Endless access was building a location in the Nashville area, but it was not complete yet, hence the need to meet at a local hotel, the comfort suites in Murfreesboro on Thompson Lane.
14. The Plaintiff has not given any authorization to be called with a pre-recorded message or automated calls to his cell phone. The calls were not related to any emergency purpose, either.
15. Th pre-recorded message stated that they were with "Vacation services" and they had just opened their new locations in the Nashville, Manchester, and Murfreesboro area. They stated that they were having an open house and were having an exciting vacation giveaway featuring an 8 day 7 night cruise including royal caribbean or carnival or 2 round trip airline tickets to any major city in the mainland United states and 3 nights hotel accommodations.
16. The calling number was spoofed and was listed as 801-823-3446, which is a Utah area code, but in reality, when the call connected, the Plaintiff spoke with some agents in Florida. When you call the 801 listed number back, there is just a repeating message of "no routes found" and it doesn't connect to anyone. This is

an attempt to conceal the true name and identity of the parties responsible for the calls. Also, it appeared that there was a 3rd party marketing firm actual making and answering the calls and booking the appointments on behalf of Endless Access. This party is also liable for placing the calls, but is currently unknown to the Plaintiff.

17. Additionally, the pre-recorded message did not state the name, address, or phone number of the calling entity or the party for who the calls were being made on behalf of.
18. The plaintiff spoke with an agent Helen who asked a few basic questions about the Plaintiff's age, income, and ensured the Plaintiff had a credit card and then scheduled the appointment at the Murfreesboro Comfort Suites hotel at 226 North Thompson Lane for the 90 minute presentation. Helen stated her call back number was 1-888-890-6550. At one point, the call disconnected, and Helen called the Plaintiff back from a number of 813-886-7868, which is an actual number where the Plaintiff was able to call them back on as well, which is a Tampa, FL area code and is listed as a landline number.
19. In doing some research on the company, Endless Access, the Plaintiff discovered a recent investigative journalist article on Endless Access, which stated the company was really a front for saveonresorts.com, LLC which is the name all the BBB and travel documents were listed as at the promotion briefing. Furthermore, the company stated they couldn't save you money on airfare, but you could buy access to book vacation packages on the website for the low, low fee of \$9,000.
20. This is similar to high pressure, overpriced timeshare vacations, but instead, they

just offer access to a vacation booking website, which is essentially the same as Expedia, travelocity, Orbitz, and other travel booking websites, which are available minus the \$9,000 up front fee.

21. The Plaintiff then called the number on the endlessaccess.com website and confirmed that the company had agents in Murfreesboro and they worked with Saveonresorts.com LLC. The Plaintiff also called Saveonresorts.com LLC and confirmed that Saveonresorts.com works with Endless Access.
22. Also, on the endlessaccess.com homepage, they state that they have a contractual relationship with saveonresorts.com and Endless access touts the 2010 and 2011 Inc Magazine rankings for being the #1 fastest growing travel website and the great customer service they provide.
23. Upon further investigation, the Plaintiff found that the 813 number tracked back to Travellink Corp and Olen Miller. Olen Miller and Travellink have a history of violations for telemarketing and were the recipients of a Notice of Apparent Liability from the FCC for violations of the TCPA in October 2011.
24. Despite being reprimanded by the FCC, Olen Miller and Travellink have continued to make illegal telephone calls to consumers in violation of the TCPA.
25. Similarly, Travellink and Olen Miller were the responsible parties for the calls and directly made the calls to the Plaintiff. On one call, the Plaintiff actually spoke with Olen Miller and verified that he was directly involved in the calls.
26. There are several elements of recovery available in this case, from direct liability to vicarious liability based on the formal agency relationship between saveonresorts.com, Travellink, and Endless Access as well as ratification.

27. The Defendants violated the Plaintiff's rights under 47 USC 227(b) by placing automated calls with a pre-recorded message to the Plaintiff's cell phone. This entitles the Plaintiff to recover \$1,500 per call.
28. The Defendants also violated the Plaintiff's rights under 47 USC 228(c) as codified as 47 CFR 64.1200(d) for placing calls with pre-recorded messages that did not state the name, address, or phone number of the entity placing the calls or on whose behalf the calls were made. This entitles the Plaintiff to an additional \$1,500 per call.

CAUSES OF ACTION:

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

29. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
30. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing unsolicited and unwelcome telephone calls to the Plaintiff's cell phone. These phone calls also violated the TCPA by having an pre-recorded message that failed to contain the name, address, and phone number for the entity for which the calls are being place as required under the TCPA. These elements of the call violated 47 USC 227 (c) as codified by the FCC's CFR 64.1200(d).

COUNT II

Violations of the Telephone Consumer Protection Act (TCPA)

31. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

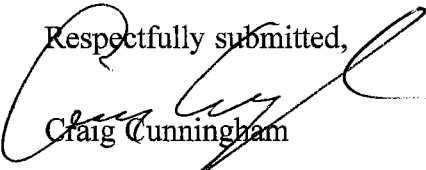
32. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing automated calls with pre-recorded messages to the Plaintiff's Cell phone. These elements of the call violate 47 USC 227 (b)(3)(a)

PRAYER FOR DAMAGES AND RELIEFS

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against Defendants
- B. Statutory damages of \$3000 for each phone call.
- C. Pre-judgment interest from the date of the phone calls.
- D. Punitive damages for all claims in the amount of \$50,000
- E. Attorney's fees for bringing this action as incurred; and
- F. Costs of bringing this action; and
- G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,


Craig Cunningham

Plaintiff, Pro-se

Mailing address:

5543 Edmondson Pike, ste 248

Nashville, tn 37211

828-291-7465

February 22nd, 2015